

STORAGE NAME: h0721s1.ag.doc
DATE: March 20, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: CS/HB 721
RELATING TO: Public records
SPONSOR(S): Committee on Agriculture & Consumer Affairs and Representative(s) Stansel & others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 7 NAYS 0
 - (2) STATE ADMINISTRATION (SGC)
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 721 provides an exemption from public records laws for agricultural records provided to the Department of Agriculture and Consumer Services (DACCS) in connection with compliance with best management practices relating to the implementation of total maximum daily loads (TMDLs) requirements. The bill also guarantees confidentiality in the event the Department of Environmental Protection or a water management district requests these records.

The public records exemption created by this legislation will be repealed on October 2, 2006, under the Open Government Sunset Review Act of 1995, unless the Legislature reenacts the exemption. A statement of public necessity is included in the bill.

CS/HB 721 does not appear to have a fiscal impact on state or local government and shall become effective upon enactment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

During the 1999 legislative session, section 403.067, F.S., was enacted establishing total maximum daily loads (TMDLs) for pollutants of impaired water bodies as required by the federal Clean Water Act. The Department of Agriculture and Consumer Services (DACS) was given the responsibility of adopting best management practices (BMPs) or other suitable measures to achieve the level of pollution reduction established by the Department of Environmental Protection (DEP).

This is a voluntary program and agricultural producers, wishing to comply with the BMPs or other measures implemented by DACS, must provide necessary records relating to production methods, costs of production, and financial information. Disclosure of such records can negatively impact the business interests of the agricultural producers supplying said information, thus acting as a disincentive to participate.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 721 provides an exemption from the public records law for certain information provided by agricultural producers to the Department of Agriculture and Consumer Services (department), as well as agencies requesting said information from the department. Such information, relating to production methods, costs of production, and other financial information, is of a sensitive and proprietary nature and, if released, would give competitors an unfair economic advantage.

The public records exemption created by this bill is subject to the Open Government Sunset Review Act of 1995, s. 119.15, F.S., and will be repealed on October 2, 2006, unless reenacted by the Legislature. The bill also provides an effective date of upon enactment, as well as a statement of public necessity.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 403.067, F.S., providing an exemption from public records laws for agricultural records provided to the Department of Agriculture and Consumer Services in connection with compliance with best management practices relating to the implementation of total maximum daily loads (TMDLs) requirements; guaranteeing confidentiality when records are requested by the Department of Environmental Protection or a water management district; and providing for repeal on October 2, 2006, unless reenacted.

Section 2: Provides a statement of public necessity.

Section 3: Provides an effective date of upon enactment.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001 the Committee on Agriculture and Consumer Affairs adopted one amendment and moved to make HB 721 a committee substitute. The amendment guarantees confidentiality when the Department of Environmental Protection or a water management district requests agricultural records from the Department of Agriculture and Consumer Services.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS :

Prepared by:

Staff Director:

Debbi Kaiser

Susan Reese